

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 19, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1909**

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**Introduced by Assembly Member Lopez**

February 11, 2016

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An act to amend Section 141 of the Penal Code, relating to crimes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1909, as amended, Lopez. Falsifying evidence.

Existing law makes it a misdemeanor for a person, or a felony for a peace officer, to knowingly, willfully, intentionally, and wrongfully alter, modify, plant, place, manufacture, conceal, or move any physical matter, digital image, or video recording, with the specific intent that the action will result in a person being charged with a crime.

This bill would make it a felony punishable by imprisonment for 16 ~~months, months~~ or 2 or 3 years for a prosecuting attorney to ~~knowingly, willfully, intentionally, and wrongfully~~ *intentionally and in bad faith* alter, modify, or withhold any physical matter, digital image, video recording, or relevant exculpatory material or ~~information that is required to be disclosed~~ *information, knowing that it is relevant and material to the outcome of the case*, with the specific intent that the physical matter, digital image, video recording, or relevant exculpatory material or information will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 141 of the Penal Code is amended to read:

141. (a) Except as provided in ~~subdivision (b)~~, *subdivisions (b) and (c)*, a person who knowingly, willfully, intentionally, and wrongfully alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, digital image, or video recording, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter will be wrongfully produced as genuine or true upon a trial, proceeding, or inquiry, is guilty of a misdemeanor.

(b) A peace officer who knowingly, willfully, intentionally, and wrongfully alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, digital image, or video recording, with specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter, digital image, or video recording will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony punishable by two, three, or five years in the state prison.

(c) A prosecuting attorney who ~~knowingly, willfully, intentionally, and wrongfully~~ *intentionally and in bad faith* alters, modifies, or withholds any physical matter, digital image, video recording, or relevant exculpatory material or ~~information that is required to be disclosed~~, *information, knowing that it is relevant and material to the outcome of the case*, with the specific intent that the physical matter, digital image, video recording, or relevant exculpatory material or information will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony punishable by

1 imprisonment pursuant to subdivision (h) of Section 1170 for 16  
2 months, or two or three years.

3 (d) This section does not preclude prosecution under both this  
4 section and any other law.

5 SEC. 2. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.